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PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER, NY 14650-2201

EXAMINER

NGUYEN, HUY THANH

ART UNIT PAPER NUMBER

2621

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/725,325	Applicant(s) WILKINS ET AL.	
	Examiner HUY T. NGUYEN	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 1-16 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-16 of copending Application No. 10/149,632. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

Applicant requests to withdraw the Double Patenting rejection is noted. However, it is noted that the Double Patenting rejection is not only one the rejection maintained in the Office Action.

Claim Rejections - 35 USC § 103

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-2,4-8 and 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linzer et al (6,005,621) in view of Phillips (6,215,485).

Regarding claim 10, Linzer discloses a system (Fig. 6, column 3, line 53 to column 4, line 3, column 9, lines 14-47) for processing a stored video stream, comprising:

a first means for generating a digital video stream;

a second means (68) coupled to the first means for creating a low resolution video stream (low bit rate ,low quality video stream information , column 3, lines 45-60, column 8, lines 1-18, lines 50-52) based upon the stored digital video stream;

a third means (66') coupled to the second means for storing the low resolution digital video stream at a digital storage medium (column 8, lines 55-68);

a fourth means (72) coupled to the third means for editing the stored low resolution digital video stream (column 3, lines 60 to column 4 line 2, column 8, line 60 to column 9 line 27);

a fifth means coupled to the fourth means for creating a resultant image and an associated edit list based upon the editing (column 3, lines 60 to column 4 line 2, column 8, line 60 to column 9 line 27);

a sixth means coupled to the fifth means for accessing the edit list by a video processor (column 3, lines 60 to column 4 line 2, column 8, line 60 to column 9 line 27);

a seventh means coupled to the sixth means for rendering a high resolution video stream (high bit rate, high quality video stream) by the video processor based upon the edit list (column 3, line 60 to column 4, line 2, column 9, lines 20-25); and

an eighth means coupled to the seventh means for storing the rendered high resolution video stream on a selected digital storage medium (column 9, lines 25-27).

Regarding claim 1, Linzer teaches a method (column 3, lines 60 to column 4 line 2, column 8, line 60 to column 9 line 27) of processing a stored video stream, comprising:

(a) generating digital video stream;

(b) creating a low resolution video stream based upon the stored digital

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video stream (low bit rate ,low quality video stream information , column 3, lines 45-60, column 8, lines 1-18, lines 50-52);

(c) storing the low resolution digital video stream at a digital storage medium (column 8, line 60 to column 9 line 27);

(d) editing the stored low resolution digital video stream (column 8, line 60 to column 9 line 27);

(e) creating a resultant image and an associated edit list based upon the editing (column 3, lines 60 to column 4 line 2, column 8, line 60 to column 9 line 27);

(f) accessing the edit list by a video processor;

(g) rendering a high resolution video stream by the video processor based upon the edit list (column 3, lines 60 to column 4 line 2, column 8, line 60 to column 9 line 27); and

(h) storing the rendered high resolution video stream on a selected digital storage medium (column 3, lines 60 to column 4 line 2, column 8, line 60 to column 9 line 27).

Linzer fails to teach means for determining whether the stored is a digital video stream as recited in claims 1 and 10. However , it is noted that using a determining means for determining if a stored video stream is a digital video stream is well known in the art as taught by Philips (column 19, lines 1-15). Therefore, it would have been obvious to one of ordinary skill in the art to modify Linzer with Phillips by using a determining means as taught by Phillips with the system of Linzer for determining if the stored video stream is a digital video stream in order to accurately and properly process the video stream .

Regarding claim 2, Linzer as modified with Phillips further teaches that if it is determined that the stored digital video stream is an analog video stream, (i) converting the stored analog video stream to the digital video stream (See Phillips column 19, lines 1-15).

Regarding claim 4, Linzer further teaches that the operations (a) - (c) and (i) are performed at a first node (Fig. 6).

Regarding claim 5, Linzer further teaches the low resolution video stream is transferred from the first node to a second node since the edited low resolution can be transferred to a display device for displaying or editing .

Regarding claim 6, Linzer further teaches the operations (d) and (e) are performed at the second node (column 3, lines 60 to column 4 line 2, column 8, line 60 to column 9 line 27);

Regarding claim 7, Linzer further teaches transferring the edit list to the first node (column 9, lines 15-30).

Regarding claim 8, Linzer further teaches that the operations (f) - (h) are performed at the first node (Fig. 6)

Regarding claim 11, Linzer further teaches the first, second and third means are directly connected to a first node (Fig. 6).

Regarding claim 12, Linzer further teaches means for transferring the low resolution videostream from the first node to a second node (Fig. 6) coupled thereto (Fig. 6) .

Regarding claim 13, Linzer further teaches the fourth and fifth means are connected to the second node (Fig. 6).

Regarding claim 14 Linzer further comprising a means for transferring the edit list from the second node to the first node (Fig. 6).

Regarding claim 15, Linzer further teaches the sixth, seventh, and eighth means are connected to the first node (Fig. 6).

5. Claims 3,9 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linzer et al (6,005,621) in view of Phillips (6,215,485) as applied to claims 1 and 10 above , further in view of Ando et al (6,353,702).

Regarding claims 3, 9 and 16, Linzer as modified with Phillips fails to teaches the storage medium is selected from the storage medium is selected from a group comprising: a DVD, a digital video tape, a flash memory device, hard driver . However, it is noted that receiving digital signal from a source of DVD m flash memory or hard is well known in the art as taught by Ando (See Ando figure19, column 24, lines 10-15) It would have been obvious to one of ordinary skill in the art to modify Linzer as modified with Phillips with Ando by providing DVD, hard disc or flash memory as a source of vide stream thereby providing more flexibility to the system of Linzer in selecting an alternative source of the video stream for the system or as a alternative storage medium for storing the edited video stream .

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6. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vigneaux et al (5,852,435) in view of Ando et al (6,353,702).

Regarding claim 10, Vigneaux discloses a system (Figs 3-5, column 11, lines 40 to column 12, line 23) comprising:

a first means for generating a digital videostream (column 3, line 50 to column 4, line 3);

a second means coupled to the first means for creating a low resolution videostream (column 11, lines 40-52) based upon the stored digital videostream;

a third means coupled to the second means for storing the low resolution digital videostream at a digital storage medium (column 11, lines 5-53);

a fourth means coupled to the third means for editing the stored low resolution digital videostream (column 12 lines 5-24, column 8);

a fifth means coupled to the fourth means for creating a resultant image and an associated edit list based upon the editing (column 9, lines 1-40 column 10, lines 4-55);

a sixth means coupled to the fifth means for accessing the edit list by a video processor (column 12, lines 9-23);

a seventh means coupled to the sixth means for rendering a high resolution videostream (high bit rate, high quality video stream) by the video processor based upon the edit list (column 12, lines 9-23); and

an eighth means coupled to the seventh means for storing the rendered high resolution videostream on a selected digital storage medium (column 7, lines 2-31).

Vigneaux fails to teach a determining means for determining whether the video stream is a digital video stream. However, it is noted that using a determining means for determining if a stored video stream is a digital video stream is well known in the art as taught by Ando. Ando at figure 19, column 23, lines 28-62 teaches means for determining whether the video stream is a digital video stream and means for receiving the digital video stream and recording the received digital video stream on a medium. . . Therefore, it would have been obvious to one of ordinary skill in the art to modify Vigneaux with Ando by using a determining means as taught by Ando with the system of Vigneaux for determining if the stored video stream is a digital video stream in order to accurately and properly process the video stream.

Method claim 1 corresponds to apparatus claim 10. Therefore method claim 1 is rejected by the same reason as applied to apparatus claim 10.

Applicants argue that the first means is shown as means 209 of the figure 1 in the specification of the present application. However, it is noted that means 209 is a selector

Regarding claim 2, Vigneux as modified with Ando further teaches that if it is determined that the stored digital videostream is an analog videostream, (i) converting the stored analog videostream to the digital videostream (See Ando column 23, lines 30-40).

Regarding claims 3, Vigneaux as modified with Ando further teaches that the digital storage medium is selected from a group comprising: a DVD, a digital video

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tape, a flash memory device, a hard drive (See Ando figure 19, column 24, lines 10-15).

Regarding claim 4, Vigneaux further teaches that the operations (a) - (c) and (i) are performed at a first node (Fig. 6).

Regarding claim 5, Vigneaux further teaches the low resolution videostream is transferred from the first node to a second node (Fig. 3, column 7, lines 65 to column 8, line 18).

Regarding claim 6, Vigneaux further teaches the operations (d) and (e) are performed at the second node (column 8, lines 20-25).

Regarding claim 7, Vigneaux teaches transferring the edit list to the first node (column 9, lines 1-40) .

Regarding claim 8, Vigneaux further teaches that the operations (f) - (h) are performed at the first node (Fig. 3, column 9, lines 1040);column 7 lines 15-65))

Regarding claim 9, Vigneaux as modified with Ando further teaches that the selected digital storage medium is selected from a group comprising: a DVD, a digital video tape, a flash memory device, a hard drive (See Ando, figure19, column 24, lines 10-15) .

Regarding claim 11, Vigneaux further teaches the first, second and third means are directly connected to a first node (Fig.3, column 7 lines 15-65).

Regarding claim 12, Vigneaux further teaches means for transferring the low resolution videostream from the first node to a second node (Fig. 3, column 7, line 65 to column 8, line 16).

Regarding claim 13, Vigneaux further teaches the fourth and fifth means are connected to the second node (column 8, lines 20-25)..

Regarding claim 14 Vigneaux further comprising a means for transferring the edit list from the second node to the first node (column 9, lines 1-40).

Regarding claim 15, Vigneaux further teaches the sixth, seventh, and eighth means are connected to the first node (Fig. 3, column 9, lines 15-40, column 10, lines 37-57).

Regarding claim 16, Vigneaux as modified with Ando further teaches the digital storage medium is selected from a group comprising: a DVD, a digital video tape, a flash memory device, hard drive (See Ando, figure19, column 24, lines 10-15).

Response to Arguments

7. Applicant's arguments filed 31 August 2006 have been fully considered but they are not persuasive.

Applicant argues that that the combination of Linzer and Philip since the editing system of Linzer uses a digital editing system. In response, Since the Linzer editing system is a digital editing system, a determining mean is need to determine whether the video signal provided to the system is a digital video signal is a digital signal. Using the teaching of Philip with the system of Linzer will appropriately

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processing video signal with digital editing system of Linzer will enhance the capacity of the Linzer system in receiving the video signals to be edited as well as preventing the error in editing the video signal .

Applicant further argues that Philip provides no first mean for determined whether the signal is digital signal. Response the examiner disagrees. Philip at column 19, lines 5-10 teaches a means for determined whether the signal is a digital signal .

Applicant argues that Ando does not teach a first means for determining whether the signal provided to a system is digital signal . In response the examiner disagrees . Ando teaches a mean for determining the video signal provided to the system is a digital since Ando teaches that if the video signal that is provided to the digital processing means , the digital video signal is passed to the digital processing and if the video signal provided to the digital processing means is an analog video signal the analog video signal is converted to the digital video signal and then the converted digital video signal is supplied to the digital processing means . It is clear that And teaches a means for determining whether the video signal is a digital video signal that meet the first means in claim identified as means 209 in the specification by applicant . Determining a kind or type of a signal before processing the signal by a processing means in order to prevent error is well recognized in the art.

Conclusion

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8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N


HUYNH NGUYEN
PRIMARY EXAMINER